

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GALE YOUNG,

Plaintiff,

v.

CA DEPARTMENT OF CORRECTIONS,
ET. AL.

Defendants.

Case No. 1:21-cv-00132-NONE-HBK

NOTICE OF VOLUNTARY DISMISSAL
PURSUANT TO FED. R. CIV. P.
41(a)(1)(A)(i)

(Doc. No. 11)

ORDER TO ASSIGN A DISTRICT JUDGE

Plaintiff filed a notice advising the Court he wishes to dismiss the action on July 27, 2021. (Doc. No. 11). Defendants have not been served, so no answer or motion for summary judgment has been filed. The Court construes the notice as filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). The Court notes that Findings and Recommendations were issued on June 29, 2021 recommending the complaint be dismissed due to Plaintiff's failure to prosecute this action. (Doc. No.10). As of this date, the District Court has not adopted the Findings and Recommendations.

"[U]nder Rule 41(a)(1)(A)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment."

Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and citation omitted). "[A] dismissal under Rule 41(a)(1) is effective on filing, no

1 court order is required, the parties are left as though no action had been brought, the defendant
2 can't complain, and the district court lacks jurisdiction to do anything about it." *Id.* at 1078.

3 Accordingly, the Clerk of Court shall assign this case to a district judge, terminate all
4 pending motions and deadlines, and CLOSE this action to reflect Plaintiff's voluntary dismissal
5 without prejudice pursuant to Rule 41(a)(1)(A)(i).

6
7 Dated: July 29, 2021


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE